

Revised: April 22, 2021

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

De La Cruz,

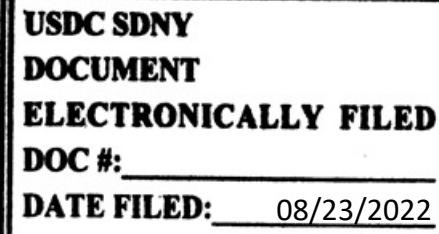
Plaintiff(s),

-against-

856 River Ave. Rest. Corp. et al

Defendant(s).

No. 22-cv-5080 PGG (SDA)



**REPORT OF RULE 26(f) MEETING AND PROPOSED CASE MANAGEMENT PLAN**

In accordance with Federal Rule of Civil Procedure 26(f), counsel for the parties spoke on 8/16/2022 and exchanged communications thereafter, and submit the following report of their meeting for the court's consideration:

**1. Summary of Claims, Defenses, and Relevant Issues**

**Plaintiff:**

Unpaid minimum wages, overtime wages, spread-of-hours, unlawfully deducted wages, under the FLSA and NYLL.

**Defendant:**

Defendants deny the allegations in Plaintiff's Complaint.

**2. Basis of Subject Matter Jurisdiction:** 29 U.S.C. § 216 (b), 28 U.S.C. § 1331, 28 U.S.C. § 1337, and 28 U.S.C. § 1367(a).

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**3. Subjects on Which Discovery May Be Needed**

**Plaintiff:**

Defendants' payroll and timekeeping policies.

Defendants' meal break, and tipping policies.

**Defendant:**

Defendants' payroll and timekeeping policies.

Defendants' meal break, and tipping policies.

Plaintiffs' expected testimony at a deposition.

**4. Initial Disclosures**

The information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure was disclosed by Plaintiff(s) on 8/16/22. In addition, on 8/16/22, Plaintiff(s) produced/will produce an initial set of relevant documents identified in its Initial Disclosures and will continue to supplement its production.

The information required by Rule 26(a)(1) of the Federal Rules of Civil Procedure was disclosed by Defendant(s) on 8/26/22. In addition, on 8/26/22, Defendant(s) produced/will produce an initial set of relevant documents identified in its Initial Disclosures and will continue to supplement its production.

**5. Formal Discovery**

The parties jointly propose to the Court the following discovery plan:

a. All fact discovery must be completed by 11/23/22.

b. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court,

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provided that the parties meet the deadline for completing fact discovery set forth in 5(a) above.

- i. Depositions: Depositions shall be completed by 11/23/22 and limited to no more than 3 depositions per party. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.
- ii. Interrogatories: Initial sets of interrogatories shall be served on or before 9/13/22. All subsequent interrogatories must be served no later than 30 days before the discovery deadline.
- iii. Requests for Admission: Requests for admission must be served on or before 10/31/22.
- iv. Requests for Production: Initial requests for production were/will be exchanged on 9/13/22 and responses shall be due on 10/13/22. All subsequent requests for production must be served no later than 30 days before the discovery deadline.
- v. Supplementation: Supplementation under Rule 26(e) must be made within a reasonable period of time after discovery of such information.

## **6. Anticipated Discovery Disputes**

Are there any anticipated discovery disputes? Does either party seek limitations on discovery? Describe.

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## **7. Amendments to Pleadings**

- a. Are there any amendments to pleadings anticipated? Not at this time.
- b. Last date to amend the Complaint: 10/13/22

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**8. Expert Witness Disclosures**

At this time, the parties do/do not (circle one) anticipate utilizing experts. Expert discovery shall be completed by \_\_\_\_\_ n/a \_\_\_\_\_.

**9. Electronic Discovery and Preservation of Documents and Information**

- a. Have the parties discussed electronic discovery? \_\_\_\_\_ n/a \_\_\_\_\_
- b. Is there an electronic discovery protocol in place? If not, when the parties expect to have one in place? The parties defer to the FRCP and LCR. \_\_\_\_\_
- c. Do the parties want the Court to enter a Rule 502(d) Order? (see [Rule 502\(d\) Order](#))  
Yes \_\_\_\_\_ No x \_\_\_\_\_
- d. Are there issues the parties would like to address concerning preservation of evidence and/or electronic discovery at the Initial Case Management Conference?  
Not at this time. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**10. Anticipated Motions**

Plaintiff anticipates the filing of a motion for conditional certification of a collective action.  
Plaintiff anticipates the filing of a (partial) motion for summary judgment at the appropriate stage of the litigation. \_\_\_\_\_

**11. Early Settlement or Resolution**

The parties have/have not (circle one) discussed the possibility of settlement. The parties request a settlement conference by no later than 10/31/22. The following information is needed before settlement can be discussed:

Payroll and timekeeping records. Financial documents evidencing an inability to pay, if Defendants anticipate raising that defense. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**12. Trial**

- a. The parties anticipate that this case will be ready for trial by 12/31/22.

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- b. The parties anticipate that the trial of this case will require 3 days.
- c. The parties do/do not (circle one) consent to a trial before a Magistrate

Judge at this time.

- d. The parties request a jury/bench (circle one) trial.

**13. Other Matters**

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Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_.

ATTORNEYS FOR PLAINTIFF(S):

/s/ Jason Mizrahi, Esq.  
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ATTORNEYS FOR DEFENDANT(S):

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**ENDORSEMENT:**

The parties' proposed case management plan is approved. In addition, the parties shall file a joint letter regarding the status of discovery on October 11, 2022. SO ORDERED.

Dated: August 23, 2022

*Att cl an*